

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

RONALD COLVIN	)	
619 Williams St.	)	
Painseville, OH, 44077	)	
	)	
Plaintiff,	)	
	)	Case No.
v.	)	
	)	
H & P CAPITAL, INC.	)	Division No.
1919 Blanding Blvd. Suite 14	)	
Jacksonville, FL 32210	)	
	)	
Defendant.	)	

**PLAINTIFF’S COMPLAINT AND DEMAND FOR JURY TRIAL**

RONALD COLVIN (Plaintiff), by his attorneys, KROHN & MOSS, LTD., alleges the following against the H & P CAPITAL, INC. (Defendant):

**INTRODUCTION**

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

**JURISDICTION AND VENUE**

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.
4. Venue is proper pursuant to *28 U.S.C. 1391(b)(1)*.
5. Declaratory relief is available pursuant to *28 U.S.C. 2201 and 2202*.

## **PARTIES**

6. Plaintiff is a natural person who resides in Painseville, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a “consumer” as that term is defined by *15 U.S.C. 1692a(3)*.
7. Pursuant to the definitions outlined in *15 U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
8. Defendant is a national company with its headquarters in Jacksonville, Florida.
9. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by *15 U.S.C. § 1692a(6)*.
10. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

## **FACTUAL ALLEGATIONS**

11. Defendant constantly and continuously places collection calls to Plaintiff seeking and demanding payment for an alleged debt.
12. Defendant started placing harassing phones calls to Plaintiff at the beginning of October 2009.
13. Defendant calls Plaintiff every other day.
14. Defendant placed about twelve (12) collection calls during the month of October 2009.
15. Defendant uses abusive and profane language in an attempt to collect the alleged debt. Specifically, Defendant stated “you’re nothing but a liar” and “we don’t want to hear that shit you’re going to pay.”

16. Defendant placed collection calls from the number (904) 418-5000 seeking and demanding payment.
17. Defendant threatened to file a lawsuit against Plaintiff while seeking and demanding payment for the alleged consumer debt. To date, no lawsuit has been filed.
18. Defendant contacted a third party, specifically Plaintiff's boss, and disclosed the nature and existence of the alleged consumer debt.

**COUNT I**  
**DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

19. Defendant violated the FDCPA based on the following:
  - a. Defendant violated §1692b(2) of the FDCPA by contacting a third party and stating Plaintiff owes a debt.
  - b. Defendant violated §1692c(a)(1) of the FDCPA by contacting Plaintiff at a time and place known to be inconvenient.
  - c. Defendant violated §1692c(B) of the FDCPA by communicating with someone other than consumer concerning the debt.
  - d. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress and abuse Plaintiff.
  - e. Defendant violated §1692d(2) of the FDCPA by using profane and abusive language in an attempt to collect the alleged debt.
  - f. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring and engaging Plaintiff in telephone conversations repeatedly and continuously with the intent to annoy, abuse, and harass Plaintiff.
  - g. Defendant violated §1692e of the FDCPA by making false, deceptive, and

misleading representations in connection with debt collection.

- h. Defendant violated §1692e(2) of the FDCPA by misrepresenting the character, nature, and/or legal status of the alleged debt.
- i. Defendant violated §1692e(5) of the FDCPA by threatening to take action that cannot legally be taken or is not intended to be taken.
- j. Defendant violated §1692e(10) of the FDCPA by using deceptive means to attempt to collect a debt because Defendant threatened to compromise Plaintiff's credit report.
- k. Defendant violated §1692f of the FDCPA by engaging in unconscionable and unfair means to collect the alleged debt.

WHEREFORE, Plaintiff, RONALD COLVIN, respectfully requests judgment be entered against Defendant, H & P CAPITAL, INC. for the following:

- 20. Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act,
- 21. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
- 22. Actual damages,
- 23. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
- 24. Any other relief that this Honorable Court deems appropriate.

**DEMAND FOR JURY TRIAL**

Plaintiff, RONALD COLVIN, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

By:\_\_\_\_/s/ Peter Cozmyk \_\_\_\_\_  
Peter Cozmyk,  
Attorney for Plaintiff

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V. H3P Capital, Inc.

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF OHIO

Plaintiff, RONALD COLVIN, states the following:

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, RONALD COLVIN hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

10-19-09

Date

Ronald Colvin

RONALD COLVIN